

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MICHAEL GUTIERREZ and
STEPHANIE CRUZ,

Plaintiff,

v.

EAST HILLS CHRYSLER-PLYMOUTH, INC.
CCAP AUTO LEASE, LTD and
SANTANDER CONSUMER USA
INC. D/B/A CHRYSLER CAPITAL, REAL LEASE
AUTO LEASING & SALES, INC., PLATINUM
AUTO LEASING & SALES f/k/a KJM AUTO SALES
INC. and DOMINICK CRUZ,

Defendants.

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EAST HILLS CHRYSLER-PLYMOUTH, INC

Third-Party Plaintiff

v.

REAL LEASE AUTO LEASING AND SALES, INC.

Third-Party Defendant.

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ALEXYS M. CARTER, ESQ., an attorney duly admitted to practice before this Court, declares:

1. I am associated with the law firm of Ahmuty, Demers & McManus Esqs., attorneys for the defendant/third-party plaintiff, EAST HILLS CRYSLER-PLYMOUTH, INC. in the above action. This affidavit is based on my handling this matter. As such, I am fully familiar with the facts and circumstances of this action. I submit this Declaration in Support of EAST HILL's Motion for a Default Judgment against REAL LEASE AUTO LEASING AND SALES, INC. pursuant to Federal Rules of Civil Procedure 55(b)(2) and Local Civil Rule 55.2(b).

17-CV-6953 (SJF)(AKT)

**DECLARATION OF ALEXYS M.
CARTER**

2. This action was commenced by the plaintiffs on or about November 30, 2017.

(**Exhibit A**).

3. An answer was interposed by this moving defendant/third-party plaintiff on or about February 2, 2018. An amended answer was also interposed on the same date. (Collectively annexed as **Exhibit B**). Shortly thereafter, your affirrant's firm filed a third-party Summons and Complaint on the third-party defendant REAL LEASE AUTO LEASING AND SALES, INC. (**Exhibit C**). Same was served via the Secretary of State of New York on February 25, 2018 and the Affidavit of Service was filed. (**Exhibit D**).

4. Defendants CCAP AUTO LEASE, LTD and SANTANDER CONSUMER USA INC. D/B/A CHRYSLER CAPITAL interposed an answer on February 21, 2018. (**Exhibit E**).

5. Pursuant to the Federal Rules of Civil Procedure, REAL LEASE AUTO LEASING AND SALES, INC.'s answer was due March 20, 2018. To date, REAL LEASE AUTO LEASING AND SALES, INC. has not answered, moved or otherwise appeared in this action.

6. The Clerk of the Court issued a Certificate of Default against REAL LEASE AUTO LEASING AND SALES, INC. on November 2, 2018. (**Exhibit F**).


7. Fed. R. Civ. P. 55(b) provides that when a party moves for judgment against an adverse party who has failed to answer or otherwise appear in the action, the court may enter judgment against the defaulting party. Once found to be in in default, the defendant is deemed to have admitted all well-pleaded factual allegations in the complaint pertaining to liability. *Greyhound Exhibitgroup, Inc. v. E.L.U.L. Realty Corp.*, 973 F.2d 155, 158 (2d Cir. 1992). The Court may then grant a final default judgment upon plaintiff's showing "that on the law it is entitled to the relief it seeks, given the facts as established by the default." *Enron Oil Corp. v. Diakuhara*, 10 F.3d 90, 95 (2d Cir. 1993).

8. Here, EAST HILLS seeks a judgment against REAL LEASE AUTO LEASING AND SALES, INC. based on all claims alleged in the Third-party Summons and Complaint (annexed as **Exhibit C**). As the facts entitling EAST HILLS to the relief it seeks are established by the default, and otherwise established by the undisputed, authenticated documentary evidence submitted with this Declaration, the Court should enter a default judgment for the relief sought against REAL LEASE AUTO LEASING AND SALES, INC. in favor of EAST HILLS CRYSLER-PLYMOUTH, INC.

9. Annexed hereto as **Exhibit G** is the proposed default judgment.

10. The foregoing is true and correct to the best of my information, knowledge and belief.

Dated: Albertson, New York
November 30, 2018

By: 
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